

Shoreline II
Scoping Comments
June-August 2015

FSEEE

Past experience suggests that adaptive management will not protect the wilderness from over-use.

The Forest Service proposes “adaptive management,” i.e., “a process of monitoring results and adjusting the chosen action” to ensure that wilderness is preserved. 80 Fed. Reg. 36502 (June 25, 2015). The 2004 Shoreline ROD also relied upon a 5-year monitoring review to determine whether protective standards were being met. The 5-year review “was never conducted,” thus, the previous adaptive management strategy was never implemented. *Id.* at 36501. In light of its past failure to implement adaptive management, the Forest Service should set permit limits conservatively to

The commercial needs assessments’ screening criteria must be included as mandatory special-use permit terms and conditions.

The Forest Service bases its commercial needs assessments on sixteen “screening” criteria, e.g., “Do the commercial services activities offer opportunities for education and interpretation about certain values of the Kootznoowoo Wilderness such as cultural, ecological or geological in a way that fosters connections with nature?” Kootznoowoo Wilderness Commercial Needs Assessment at Appendix 1. The assessments determined that Remote Setting Nature Tours, Camping, Freshwater Fishing, and Hunting are “necessary” because they meet the screening criteria. Floatplane Landing Tours failed to meet six of the criteria and, thus, do not meet the Wilderness Act’s narrow allowance for commercial activities. *High Sierra Hikers Ass’n v. Blackwell*, 390 F.3d 630, 647 (9th Cir. Cal. 2004).

The screening criteria are not “voluntary” measures the outfitters can elect at their own discretion. The criteria form the legal basis for the Forest Service’s finding that these commercial services are “necessary . . . for realizing the recreational or other wilderness purposes of the area.” 16 U.S.C. § 1133(d)(5). The screening criteria must be incorporated as a part of each permit’s mandatory terms and conditions, to the extent that the permit authorizes commercial services within a wilderness area.

Wilderness Watch

- Wilderness Watch urges the Forest Service to preserve the wilderness character of the six Wildernesses concerned, as required under the 1964 Wilderness Act. The noise and proximity of vessels can negatively impact wilderness character, including

the "outstanding opportunities for solitude" that the Wilderness Act requires us to protect.

- ...the Forest Service must not allow every single proposal for commercial vessels near the affected Wildernesses. The Wilderness Act requires us to make a determination of commercial services "to the extent necessary." This does NOT mean maximizing commercial services and authorizing any and every commercial service that wants to operate. The U.S. 9th Circuit Court of Appeals dealt extensively with this issue in the High Sierra Hikers case, clarifying that this clause does not mean maximizing commercial services, but rather that commercial services should be minimized.

Paul Olson, on behalf of The Boat Company

- TBC submits that the most important concept that the DEIS should analyze and consider is finer scale wilderness zoning as has been done by numerous wilderness managers throughout the country, including southern and central Tongass National Forest ranger districts. Providing different recreation opportunities in Wilderness can achieve the most appropriate balance between commercial recreation and the majority of legitimate public uses of Wilderness in a way that still provides sufficient area for solitude seekers to be alone in Wilderness (Pg. 1).
- While TBC has participated in and supports the efforts of Shoreline II wilderness managers to develop an encounter monitoring program, we are concerned that the initial monitoring effort lacks sufficient data about actual Wilderness use, and further shows no link between guided visitor use and perceived risks to OOS. In other words, the rationale for lower service day allocations for outfitter-guided use in the proposed action and even more restrictive alternative reflects an *assumption* that is not supported by actual data even though the assumption – that Wilderness solitude opportunities are at risk - appears to be the dominant factor in the range of alternatives and carrying capacity analysis (Pg. 1).
- ***The DEIS should consider the distinctions between opportunities for solitude and primitive and unconfined recreation...***TBC requests that the DEIS discuss the meaning of the outstanding opportunities clause, including the distinction between OOS and OOPUR, and consider whether Shoreline II can provide meaningful OOS even though (as discussed in Section II) a portion of Shoreline II wilderness areas are adjacent to saltwater travel routes with high levels of pre-ANILCA and current maritime traffic (Pgs. 3-4).

- ***The analysis should consider displacement issues with regard to wilderness recreationists seeking opportunities for primitive and unconfined recreation....*** Thus, we request that the DEIS carefully consider how a rigid solitude standard can also implicate displacement concerns, and further how the standard may displace a larger proportion of wilderness users (Pg. 5).
- ***The DEIS should discuss the subjectivity of solitude experiences for different users...*** In other words, we hope that the analysis evaluates the importance of encounters as it pertains to the quality of the wilderness experience, particularly for the majority of wilderness visitors (Pg. 6).
- ***The DEIS could consider a remote, trailless indicator to measure OOS.*** TBC submits that the remote, trailless indicator could provide additional perspective on the availability of OOS in northern Tongass wilderness areas. In terms of overall acreage, Tongass National Forest wilderness areas offer vastly more OOS than any other geographic area in the United States. Wilderness in southeast Alaska alone comprises 28 percent of the land, 17% of all National Forest System wilderness and provides 120 acres per resident – twenty times as much as the next closest state, Wyoming. [TLMP FEIS at 3-458]. Given this large amount of Wilderness, are OOS really at risk? An effort to quantify more remote acreage would help to answer this question (Pg. 7-8).
- ***The DEIS should evaluate zoning wilderness areas into wilderness recreation opportunity zones to balance OOS and PUR...*** TBC does not necessarily have a preference for a two-zone or multi-zone approach at this time, but believes that, at a minimum, the analysis should consider some type of Shoreline/Upland solitude zoning such as the management approach adopted by the Wrangell and Ketchikan-Misty Fjords Ranger Districts. We would add that their management approach did not appear to be controversial – there was only one administrative appeal of the KMRD's plan and it did not question the zoning scheme. The analysis should also discuss more complex schemes, particularly for larger wildernesses (i.e. ANM), and in sufficient detail to allow for possible implementation in the ROD after further internal review and public comment (Pgs. 8-9).
- ***The DEIS should discuss and involve the public in 2012 Wilderness Plan encounter thresholds..*** TBC requests that the DEIS discuss the “low potential for encounter” measure and solicit public comment on a range of encounter thresholds and appropriate uses of those thresholds. TBC recognizes that there are established wilderness recreation opportunity classes which use similar, probability based low encounter standards – but such standards are only applied to those portions of zoned wildernesses designated as “Pristine” or “Primitive,” and do not include access points and adjacent travel routes. [See, e.g. KMRD ROD, Appx. 1 at 5 (no encounters per day in Primitive Wilderness 90% of the time; no more than two

encounters per day during trip 90% of the time in Semi-Primitive Wilderness)]. Changes to encounter thresholds can be implemented in several ways via the Shoreline II process – whether through zoning, monitoring program implementation or other means. TBC requests that the Shoreline II NEPA process solicit public comment on appropriate encounter thresholds (Pgs. 10-11).

- ***The DEIS should analyze and discuss different monitoring approaches to non-wilderness areas, and how those results affect encounter rates..*** We request that the DEIS discuss different approaches to accounting for encounters on saltwater travel routes. The 2012 Wilderness Plan recognizes an “encounter” occurs “when a person or groups becomes aware of the presence of another person or group within the wilderness.” [Forest Service 2012a at 5]. But then its first criterion explicitly incorporates “low potential for encounters” on national forest lands and saltwater travel routes. [Forest Service 2012a at 2 (emphasis added)]. It is unclear whether the saltwater encounter data are being evaluated or incorporated into alternatives that would restrict guided use of wilderness. TBC requests that encounters within wilderness and outside of wilderness should be itemized separately as specified in the 2012 Wilderness Plan. [Forest Service 2012a at 7](emphasis in original)(Pg. 11).
- ***The DEIS should consider a baseline and include an overview of historical conditions...***TBC requests that the DEIS consider historical and existing conditions in assessing whether and to what extent OOS are at risk. In particular, the DEIS should recognize that Chatham Strait, Frederick Sound, Icy Strait, Stephens Passage, Lynn Canal and portions of the outer coast near ports were heavily used marine travel routes at the time of wilderness designation. Some uses have increased, others have decreased. The analysis could then consider whether the initial data collection effort over the past five years is more useful as part of an initial effort to acquire baseline data on existing conditions. Finally, recognition of the maritime history of the region may be helpful in assessing where OOS exist – for example, less heavily used bays, or shoreline areas where topographic or other features minimize the effects of marine travel routes would be more appropriate locations for identifying areas with OOS, particularly during the summer season (Pg. 16).
- ***TBC..requests that the DEIS include a discussion regarding the statistical reliability of data collected thus far that would evaluate the most appropriate ways to incorporate the data into the Shoreline II decisionmaking process.*** [40 C.F.R. § 1502.24 (providing, generally, that environmental analyses should discuss relevant methodologies)]. For example, the 2014 Mount Massive Wilderness monitoring report explicitly rates both the adequacy of data in terms of quality (degree of confidence in data quality) and the quantity (completeness of the inventory) of its monitoring. [Forest Service 2014b at 15-16] (Pg. 17).

- ***The DEIS should include an evaluation of data quality (statistical reliability) and compare encounter monitoring data and outfitter/guide use data..*** In other words, the DEIS needs to carefully analyze, and quantify, whether and to what extent the perceived risks to OOS actually have a relationship to outfitter/guide use of areas managed by the Forest Service. TBC's review of the encounter and outfitter/guide use data for some of the Wilderness Use Areas suggests that outfitter/guide encounters may be so rare as to be statistically insignificant relative to sightings of fishing boats, planes, etc. TBC thus requests that the DEIS reflect quantifiable and reliable data of actual Wilderness use prior to assuming that service day restrictions could somehow alleviate perceived crowding and use intensity in wilderness use areas that seems to result primarily from activities in areas outside of federal jurisdiction. (Pg. 19).
- ***Is there enough data, especially for onshore encounters?*** Our review of the encounter monitoring spreadsheets indicates variability in the amount of monitoring effort by Use Area in different years. We thus request that the DEIS consider the question of "how much data is enough" and evaluate appropriate standards for determining the amount of encounter data needed to develop reasonably precise estimates. (Pg. 19).
- ***Does the data introduce additional bias due to the subjectivity of the monitors?*** TBC is also concerned that the subjectivity may reduce the quality of the encounter data. Tongass wilderness managers recognize that "[m]easuring the effects on solitude is subjective." [Forest Service 2010a at 15-16 (explaining that the absence of a systematic method or statistical analysis for measuring solitude impacts means that information should not be extrapolated or interpreted beyond the immediate observations)..TBC requests that the DEIS discuss the low, medium and high encounter criteria, and allow for public comment. The criteria are highly susceptible to introducing additional subjectivity into the data collection effort (Pg. 20).
- ***TBC has reviewed public comment submitted during the July 2014 scoping period and questions the Corrected NOI's statement that "[t]he lower allocation alternative reflects ...views of the public identified during scoping."*** [80 Fed. Reg. at 36502]. This statement was misleading and exaggerates the extent and nature of public comment during the initial scoping period (Pg. 21).
- In sum, TBC is concerned that data should not be utilized to prematurely identify areas where OOS is at risk, and, to the extent that such areas have been identified for possible management action, the DEIS should include a data quality analysis. We also request that the DEIS consider using the data primarily for the purpose of informing the development of a monitoring methodology – for example, to meet the recommendations of the National Minimum protocol to establish and map use zones

for previously unzoned wildernesses to guide data collection that reflect use patterns. [Forest Service 2014a at 15] (Pg. 21).

- Our most important suggestion is that you consider zoning for wilderness recreation opportunity classes in the DEIS. We also encourage you to treat the encounter data collected under the Wilderness Stewardship Challenge with caution as it is an initial effort that is best used to inform a more systematic methodology. In particular, TBC's preliminary review of encounter monitoring data and actual outfitter/guide use raises serious questions about whether there is an actual link between outfitter/guide use and impacts to solitude. This means that the rationale for restricting service day allocations rests on an assumption that is wrong. Finally, it is of some concern that the development of encounter thresholds and the emphasis on non-wilderness encounters in the 2012 Wilderness Plan occurred with input from a limited number of stakeholders. We believe it is premature to adopt these standards, and request that you solicit public comment through the Shoreline II NEPA process and reserve the adoption of encounter thresholds for the Shoreline II ROD (Pg. 21-22).

The Boat Company Report

- The FS developed their initial shoreline capacities with ***little public involvement***.
- FS appears to ***over-focus on commercial recreation impacts***, because neither Shoreline I nor II addresses non-commercial use.
- There are ***disconnects between FS use limits and the impacts they are designed to address***, largely because of mismatched temporal or geographic scales.
- In some places, the ***rationale for grouping specific sites into locations is unclear***; capacities for groups of dissimilar sites are more challenging to develop than those for homogenous sites.
- The FS analysis does not appear to consider ***finer-scale zoning with different encounter standards or capacities***, which might better fit with the variety of existing conditions and provide greater diversity for future opportunities.
- There appear to be more ***opportunities to apply non-capacity management actions*** to address some commercial use impacts (and allow higher use while keeping conditions acceptable or high quality).

Mike Trotter

Baranof Wilderness Lodge

- We are in full support of the Visitor Capacities you have proposed in Table one for use area 04-05A. Over the past 27 years in Kelp Bay I have watched the increase of permits and use days issued to Cruise ships Companies and other large group operators. These High volume shore landings are taking away the primitive experience and impacting the fragile estuary and stream ecosystems by putting such

large numbers of people in this area all at one time. We would fully support and rejoice with such a limit of 4.1 average group size on landing on these special use areas of SE Admiralty. The formula of “reasonable number of people that can be accommodated in a given Use Area and season, without detriment to the resource or visitors experience” was music to my ears!

- We do have some big concern with the proposed Visitor Capacities in area 04-04B. Back in 2002 yr the Chatham Area Saltwater Shoreline-Based Recreation Carrying Capacity Plan that was implemented stuffed poor Kelp Bay between some slatted large group landed areas such as Lake Eva and Baranof Warm Spring. Lake Eva which has a nice new trail system that can accommodate mass landings from the cruise ship companies. Kelp Bay became included and designated for large group landing as part of Area 04-04B. I strongly believe that this Magnificent and unique system of inter-bays, estuaries and streams deserves a much higher level of protection and stewardship from these mass landings. The proposed Visitor Capacities of 10.3 average group size is way to liberal for these small and fragile ecosystems. The very thought of 10 + boots hitting the ground at one landing is so viscerally wrong to me and so contrary to taking care of the quality of the natural environment. Please take another look at Kelp Bay; incremental of the other large group areas of 04-04B and I beg you to lower the Visitor Capacities in group sizes there.

Randy Burke

- My main concern is protecting the “wilderness nature”. As a tour operator conducting 7-11 day voyages aboard two yachts we limit our group size to 10-12 guests. It is very important for our guests that they be able to experience solitude, “wilderness”, and unaffected wildlife. Increasingly, large expedition ships carrying 32-100 guests are trying to sell the same experience as us. However, the truth is you cannot bring 50 people ashore and expect to see a bear. You cannot bring 50 people ashore and give them the experience of solitude and wilderness.

We are having increasing conflicts with these larger vessels as they seek out areas that previously only the smaller tour boats operated. And it should be noted that these larger vessels may anchor in the same bay, send out 30 kayaks and three large skiffs but never go ashore – so their impact is not being captured in this analysis.

- I understand that there are now specific sites that allow these ‘very large’ groups to go ashore. Your capacity analysis does not express this information – presumably because of the use of averages. I would appreciate a response indicating how this use is included in the analysis and how does a smaller tour operator learn about ‘very large’ group use and where it is permitted?